

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

PROPOSED TEXT

TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6.5

AMEND ARTICLE 1, DEFINITIONS AND GENERAL PROVISIONS, SECTIONS 1200; ARTICLE
6.5, CARRIER IDENTIFICATION NUMBERS, SECTIONS 1235.1 THROUGH 1235.6; AND
ARTICLE 8, SECTION 1256, IDENTIFICATION
ADOPT NEW SECTION 1235.7, LEASED VEHICLES

**MOTOR CARRIER SAFETY - CARRIER IDENTIFICATION
(CHP-R-09-15)**

Existing text:Times New Roman 12 point font.
Additions:.....Times New Roman 12 point font with single underline.
Deletions:~~Times New Roman 12 point font with strikethrough.~~

NOTE TO PUBLISHER/READERS: For consistency, the style of all titles following the lower case alphas [(a), (b), (c), etc.] have been modified. The former style was, for example “(a) Design.”; the proposed style is “(a) *Design.*” Since the change is just to the text style (normal to bold italicized text) underlines have not been used to indicate this change. Only in the case of actual additions or deletions has the underline and strikeout been used. Please recognize that italicized text is a format change and that it should be updated in the printed document.

**Title 13, California Code of Regulations,
Chapter 6.5 Motor Carrier Safety
Article 1. Definitions and General Provisions**

Section 1200, Scope, is amended to read:

(a) *Applicability.* Unless otherwise indicated within a specific section, the provisions of this chapter shall apply to ~~farm labor vehicles and the vehicles listed in Vehicle Code Sections 34500 and 34500.1 and their operation.~~

(b) *Limited Application.*

(1) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are required pursuant to

Vehicle Code Section 27903 shall be subject to the following Sections of this chapter:
1212, 1212.5, 1213, 1213.1, 1214, 1215, 1229, 1230, 1232, 1234, and 1256.

(2) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are not required shall be subject to the following Sections of this chapter: 1212, 1212.5, 1214, 1215 (except 1215(b)), 1229, 1230, and 1232. Two-axle motortrucks transporting hazardous materials for which a license is required by Vehicle Code Section 32000.5 shall also be subject to Section 1256.

(3) Section 1213.1 Subsections (c) through (f), shall apply to drivers of commercial vehicles as defined in Vehicle Code Section 15210.

(4) Two-axle motor trucks described in subdivision (j) of Vehicle Code Section 34500 shall be subject only to Sections 1212, 1212.5 and 1213 of this chapter.

(5) Persons operating vehicles which cause those persons to be subject to the Motor Carriers of Property Act as described in Division 14.85 of the Vehicle Code, but which vehicles are not included in Vehicle Code Section 34500, unless otherwise specified, shall be subject only to Article 6.5 of this chapter.

(c) ***Exceptions.*** This chapter shall not apply to vehicles used primarily off the highway and not required to be registered pursuant to Vehicle Code Section 4000(a).

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5, 34508 and 34513, Vehicle Code; and Section 39831, Education Code. Reference: Sections 31401, 34500, 34500.1, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

Article 6.5. Carrier Identification Numbers

§1235.1. Application for Carrier Identification Number.

(a) ***Required Application.*** Persons subject to Section 34507.5 of the Vehicle Code shall apply to the department for a carrier identification number as required by that section, using the application specified in paragraph ~~(e)~~(f).

(b) ***Person Defined.*** Whenever in this article reference is made to a person, it shall be understood to mean an individual, partnership, corporation, limited liability company, state or local government agency, firm, association, or other legal entity who is subject to Section 34507.5 of the Vehicle Code. For purposes of this article, the terms “carrier,” “firm,” “legal entity,” “motor carrier,” “motor carrier of property,” “organization,” “owner,” “person,” or other collective term shall be interchangeable unless specified otherwise in a specific instance.

(c) ***CA Number.*** The carrier identification number referenced in Section 34507.5 of the Vehicle Code shall be referred to in this section as a “CA number.” CA numbers are generated by an automated record system operated by the department. CA numbers shall be assigned to each new applicant in sequence, and requests for specific numbers shall not be honored by the department.

(d) ***Other Tracking Numbers.*** The application specified in paragraph (f) may be used to generate other tracking numbers necessary to perform those duties assigned to the department.

~~(d)~~(e) ***Application Fee.*** Applications for CA numbers are received and processed without charge to the applicant.

~~(e)~~(f) ***Motor Carrier Profile.*** Persons subject to Section 34507.5 of the Vehicle Code shall submit a completed application for a CA number on a Motor Carrier Profile, CHP 362, as revised in the ~~June 1999~~January 2007 edition.

(1) Single copies of this application are available free of charge from the department at its field division offices in Redding, Rancho Cordova, Vallejo, Fresno, Los Angeles, San Diego, San Luis Obispo, and San Bernardino, or from its Commercial Vehicle Section in Sacramento.

(2) The current version of the application is also available for printing from the Internet at the department's Internet site at www.chp.ca.gov under ~~Forms~~Publications. The specific location of this application on the department's Internet site may vary over time as the site is updated, but should be locatable using the search term "CHP 362."

~~(f)~~(g) ***Completion and Submission.*** Applications shall be completed legibly, and mailed or otherwise delivered to the department according to the instructions contained in the application.

§1235.2. Motor Carrier Safety Records of the Department.

(a) ***Records Associated With CA Numbers.*** The record system referenced in sSection 1235.1 contains carrier records and terminal records. ~~All of the information in the record system is public information.~~

(b) ***Carrier Records.*** Carrier records may contain some or all of the following information:

(1) Identification by the legal name of each person who is a motor carrier as defined in Section 408 of the Vehicle Code or a ~~m~~Motor ~~e~~Carrier of ~~p~~Property (MCP) as defined in Section 34601 of the Vehicle Code.

(2) Any properly adopted business names used by the carrier.

(3) The physical address, mailing address, and telephone number of the carrier's principal place of business.

(4) At the carrier's option, the names of two individuals designated by the motor carrier as emergency contacts, with day and night telephone numbers for each, which the department may use if necessary to contact the carrier's management regarding an emergency involving a vehicle or driver of the carrier.

(5) Codes assigned by the department representing the geographical location of the carrier's principal place of business.

(6) Identification of the type of legal entity the person is, such as individual, partnership, corporation, or limited liability company.

(7) If the applicant is a partnership, corporation, or limited liability company, the applicant's federal employer identification number, or if an individual, the individual's driver license number or state-issued identification card number and state of issue, and if the individual has employees, the individual's federal employer identification number.

(8) The carrier's California or foreign corporation number assigned by the California Secretary of State.

(9) Identification of the state agency that created the record in the automated system; ~~either the department in connection with its duty to regulate the safe operation of vehicles described in Division 14.8 of the Vehicle Code, or the Department of Motor Vehicles in~~

~~connection with its duty to administer the Motor Carriers of Property Permit Act in Division 14.85 of that code.~~

(10) Brief descriptions of the types of regulated vehicles the carrier operates or transportation activities in which the carrier is engaged, referred to collectively as “types of operation.”

(11) The number and locations of terminals the carrier operates in California, each identified as active or inactive.

(12) Status of the carrier record as a whole as active or inactive, and the effective date of that status.

(13) The date on which the carrier record was most recently updated.

(14) A listing of licenses, operating authorities, ~~and~~ registrations, and tracking numbers held by the carrier to conduct various transportation-related activities, and cross-references to identification numbers issued by other agencies to that carrier.

(15) A count of regulated vehicles and hazardous materials tanks and containers in the carrier’s fleet, and the number of drivers, derived as the sum of all vehicle counts indicated in (c)(10) and (11).

(16) Fleet mileage by year, as reported by the carrier.

(17) Business (doing business as) names the carrier uses.

(18) A listing of the carrier’s terminals subject to the inspection program mandated by Vehicle Code Section 34501.12, if applicable.

(19) A listing of citations written to the carrier by the department for violations relating to operation of commercial vehicles, not including adjudication.

(20) A listing of accident reports taken or received by the department in which the carrier was identified as an involved party in the accident.

(21) A listing of locations at which the carrier operates terminals.

(22) The rating assigned by the department, pursuant to Section 1233, to the carrier, and the date of the rating assignment.

(c) ***Terminal Records***. Terminal records may contain some or all of the following information:

(1) The name the carrier uses at the terminal location, and the address.

(2) The terminal office telephone number.

(3) At the carrier's option, the names of two individuals designated by the motor carrier as emergency contacts for that specific terminal, with day and night telephone numbers for each, which the department may use if necessary to contact the terminal's management regarding an emergency involving a vehicle or driver believed to be from that terminal.

(4) Codes assigned by the department representing the geographical location of the terminal.

(5) Types of operation in which the carrier is engaged at the terminal.

(6) The rating assigned by the department pursuant to Section 1233 to the terminal, and the date of the rating assignment.

(7) The date on which the most recent information about the terminal was entered into the record.

(8) A listing of any transportation-related licenses or registrations associated with the specific terminal.

(9) A history of fees paid and inspections completed pursuant to Section 34501.12 of the Vehicle Code.

(10) A count of vehicles subject to Section 34501.12 of the Vehicle Code.

(11) A count of vehicles operated from the terminal, with codes indicating types of vehicles and a legend explaining the codes.

~~(11)~~(12) A count of drivers based at the terminal.

~~(12)~~(13) Fleet mileage by year of vehicles operated from the terminal.

~~(13)~~(14) A history of terminal ratings showing the ratings given for each of four categories of compliance matters, and the overall compliance rating assigned to the terminal, with an indication of whether each inspection was conducted pursuant to Section 34501.12 of the Vehicle Code or other authority, whether a due process notice was issued when an unsatisfactory rating was assigned, the predominant type of operation upon which compliance was rated, the date of the inspection, and a tentative suspense date for departmental review of the record and possible scheduling of the next inspection.

§1235.3. Required Information and Assignment of Identification Numbers.

(a) ***“Doing Business As” Names.*** “Doing Business As” (DBA) names under which a person operates may be associated in the department’s records with the CA number and legal name of the person.

(b) ***DBA Name Not A Separate Entity.*** The fact that a person does business under another name does not create an entity distinct from that person. Except as specifically permitted in this section, DBA names that are fictitious business names shall not be

included on the application referenced in Section 1235.1 unless they are adopted in compliance with the Business and Professions Code, commencing with Section 17900.

(1) The name of another carrier to whom a person is contracted or under whose federal operating authority the person operates is not acceptable as a DBA name of that person.

(2) The department may require the applicant to provide verification of compliance with the requirements of the Business and Professions Code regarding the adoption of fictitious business names.

(c) ***Legal Name Required.*** A CA number shall be assigned in the legal name of the person who is a motor carrier or motor carrier of property.

(1) An individual who operates vehicles which cause the individual to be subject to Section 34507.5 of the Vehicle Code shall, upon submission of a properly completed application, be assigned one CA number in the legal name of that individual.

(A) A business or other enterprise which is operated as a sole proprietorship, but managed jointly by a family, such as by a husband and wife, siblings, parent and child, or is managed by unrelated individuals in an informal partnership, shall be identified on the application referenced in Section 1235.1 as operated by one individual, and a CA number shall be assigned in the legal name of the individual so identified.

(2) A partnership, corporation, or limited liability company that operates vehicles which cause it to be subject to Section 34507.5 of the Vehicle Code shall, upon submission of a properly completed application, be assigned one CA number in the legal name of the partnership, corporation, or limited liability company.

(3) A department or an independent commission of the state that operates vehicles which cause it to be subject to Section 34507.5 of the Vehicle Code shall, upon

submission of a properly completed application, be assigned one CA number in the legal name of the department or commission. Except as provided in subsections (c) and (d), levels of state government below the department level shall not be identified as DBAs of the state. As used in this paragraph, the term “department level” means the first major organizational subdivision of a state Department or Commission below its executive level.

(4) A county shall be assigned one CA number. County departments may be identified as DBA names of the county. Except as provided in subsections (c) and (d), levels of county government below the county department level shall not be identified as DBAs of the county.

(5) A city shall be assigned one CA number. City departments may be identified as DBA names of the city. Except as provided in subsections (c) and (d), levels of city government below the city department level shall not be identified as DBAs of the city.

(d) ***Commissions and Special Districts.*** A county or city commission, or a special district or joint powers agency governed by a board of trustees, that operates vehicles which cause the commission, district or agency to be subject to Section 34507.5 of the Vehicle Code, shall, upon submission of a properly completed application, be assigned a CA number separately from the level of government with which it is associated.

(e) ***Public School Districts.*** A public school district operated by the state, a county, or a city shall, upon submission of a properly completed application, be assigned a CA number separately from the level of government with which it is associated.

(f) ***Associations and Other Organizations.*** Associations and other organizations comprising a federation of relatively independent local offices, chapters, congregations,

or other units but which are affiliated statewide or nationally with a central organization in such a manner that they share the same federal employer identification number, shall be considered one organization and shall share the same CA number, unless a local chapter is incorporated separately from the state or national organization. The name of each local chapter of the organization may be identified as a DBA of the organization if the local chapter operates one or more vehicles that cause the organization to be subject to Section 34507.5 of the Vehicle Code and the DBA name is properly adopted pursuant to paragraph (b), except that any one DBA name shall not be repeated in the records of the department regardless of how many locations use that DBA name.

(g) ***Reorganizations.*** Reorganization of a business, enterprise, or other organization under the ownership of a different legal person, such as from a sole proprietorship to a partnership or from a partnership to a corporation shall be considered the emergence of a new or different person, which, if that new person operates vehicles that cause the person to be subject to Section 34507.5 of the Vehicle Code, shall require application for a new CA number pursuant to Section 1235.1.

(1) “Reorganization” includes the dissolution of an entity and the creation of a new entity of the same type, such as from a corporation to a new corporation, or from a limited liability company to a new limited liability company, even if all the individuals who comprise the management of the new entity are the same individuals who managed the previous entity.

(2) Upon issuance of a new CA number to the new legal entity, the department may place the CA number of the former organization in inactive status.

(h) ***Individuals Participating in Multiple Businesses.*** An individual operating one or more businesses as a sole proprietor shall be assigned one CA number, regardless of the number of businesses operated. An individual who enters into a partnership or participates as an owner in the formation of a corporation or limited liability company, but continues to operate one or more businesses as a sole proprietor, shall retain his or her original CA number, which shall continue to represent that individual as a sole proprietor. The partnership, corporation or limited liability company in which that individual participates as a partner or co-owner is a separate legal entity and shall be assigned its own CA number.

§1235.4. Identification Numbers Nontransferable.

(a) ***One CA Number Per Person.*** An individual shall be assigned one CA number regardless of how many business enterprises the individual may operate as a sole proprietor or DBA names he or she may use. A partnership, corporation, or limited liability company shall be assigned one CA number, regardless of how many internal divisions it may have or DBA names it may use in representing its business enterprises to the public. The CA number shall represent the legal name of that person, not a DBA name the person may use.

(b) ***Nontransferable.*** A CA number is not transferable from one person to another, except to correct any errors on the part of the department in the assignment of a number. The department will deny issuance of a CA number to any person the department determines to have been assigned a CA number previously, unless the previously-assigned CA number no longer exists in the department's files due to processes described

in Section 1235.5. Once a CA number ceases to exist in the records of the department due to processes described in Section 1235.5, that number shall not be reassigned to any person, except when it was deleted by the department's error.

(1) Pending a hearing pursuant to the Administrative Procedures Act of the Government Code commencing with Section 11500, the department may refuse to issue a new CA number or delete a CA number which has been already been issued to a legal entity that is owned or managed, in whole or in part, by an individual against whom the department, the Department of Motor Vehicles, or the Public Utilities Commission has an unresolved action, and, in the department's opinion, the individual's purpose in applying for the new CA number is to circumvent or thwart the action.

(c) ***Name Changes.*** The department will update its records to reflect a change in the legal name of any person who has been assigned a CA number upon submission of satisfactory evidence that the new name represents the same legal entity currently associated with that CA number, and the change is not the result of the formation of a new legal entity.

(d) ***Inactive Entities.*** A person who ceases to be subject to Section 34507.5 of the Vehicle Code shall retain or forfeit an existing CA number according to the following:

(1) If a person ceases operations in California or fails to notify the department of a change of address pursuant to Section 1233.5 of this title for three or more years, the department may consider the person inactive and may place the person's CA number in inactive status. If the person subsequently resumes operations in California, the person's inactive CA number and its associated carrier record shall be restored to active status.

The person shall not be assigned a new CA number.

(2) If a person ceases operations in California, or fails to notify the department of a change of address pursuant to Section 1233.5 of this title for six or more years, the department may consider the person no longer to exist, or no longer subject to Section 34507.5 of the Vehicle Code, and may purge the CA number and its associated records from the department's record system. If the person resumes operations in California subsequent to the purge of the records, the person's original CA number shall not be restored, and the person shall be treated as a new applicant pursuant to section 1235.1.

(3) The department may delay purging an inactive CA number and its associated record from its automated system beyond the time frames in paragraphs (1) or (2) for any reason, and is not obligated to place a record in inactive status at any particular time.

(e) ***Mergers and Acquisitions.*** When two or more persons combine into one organization through a merger, acquisition or other legal transaction, retention of existing CA numbers and issuance of new numbers shall be governed as follows:

(1) When a new partnership, corporation, or limited liability company is formed from former entities, some or all of whom held CA numbers, the resulting new organization is a new person and shall apply for a new CA number pursuant to Section 1235.1. The CA number of any former entity that no longer exists or no longer operates vehicles that would make it subject to Section 34507.5 of the Vehicle Code, may be placed in inactive status by the department.

(2) When a person acquires another person's business assets and will continue to operate as the same person he or she was prior to making the acquisition, as opposed to reorganizing as a new legal entity, that person shall retain his or her existing CA number and shall advise the department which terminals purchased from the ~~the~~ former owner, if

any, will be operated by the new owner. If vehicles described in Vehicle Code Section 34500 are to be operated from any of those terminals, the department will create new terminal records under the new owner's existing CA number for those terminals, and will place the terminals at those addresses that are under the former owner's CA number in inactive status.

(3) All vehicles acquired in the transaction that are the subject of Section 34507.5 of the Vehicle Code shall be remarked with the name or DBA name and CA number of that person pursuant to that section, Sections 27900 and 27901 of that code, and Sections 1256 or 1256.5 of this title.

(4) When ownership of a business operated as a sole proprietorship passes from one individual to another, including the passage of ownership between individual members of a family, the new owner is a different person and shall apply for a new CA number unless he or she already has one, in which case the transaction shall be treated as indicated in subparagraph (2).

(5) The new owner shall identify to the department the former entities that were acquired and that no longer exist as separate legal entities. In the case of acquisitions from an individual who will cease operations that would cause him or her to be subject to Section 34507.5 of the Vehicle Code, the new owner shall identify the former owner of the business or other organization to the department.

(6) If the new owner is a motor carrier as defined in Section 408 of the Vehicle Code, he or she shall identify which motor carrier terminals belonging to the former owner will continue to be operated as terminals of the new owner. If the new owner is subject to Section 34507.5 of the Vehicle Code solely because it is a motor carrier of property as

defined in Section 34601 of the Vehicle Code, but is not a motor carrier as defined in Section 408 of the Vehicle Code, no business locations need be identified to the department except the new owner's principal place of business.

(f) ***Divisions and Dissolutions.*** When a motor carrier or motor carrier of property divides its operations into two or more new legal entities, the retention of an existing CA number and issuance of a new CA number shall be governed as follows:

(1) When the original motor carrier or motor carrier of property continues to exist as the same legal entity, it shall retain the CA number it had before the division, pursuant to paragraph (d)(2).

(2) When the original motor carrier or motor carrier of property reorganizes as a different entity type, or as the same type but a new legal entity, that entity shall apply for a new CA number pursuant to Section 1235.1.

(3) The portion of the original legal entity which has been separated and formed into a new legal entity shall apply for a new CA number pursuant to Section 1235.1.

§1235.5. Retention of Records by the Department.

(a) ***Deletion of CA Numbers.*** A CA number and its associated records will be deleted from the department's automated record system for any of the following reasons:

(1) A number was assigned in error to a person who was not subject to Section 34507.5 of the Vehicle Code at the time the number was assigned.

(2) A second or subsequent number was assigned to the same person in error. In this circumstance, any carrier or terminal information associated with a superfluous CA number will be transferred to the person's correct CA number.

(A) The department may, at its discretion, permit a person to choose which CA number to keep and which to delete. This permission will not be extended if either of the following conditions exist:

(i) The department is aware the person is currently the subject of any legal proceeding in which any CA number associated with that person appears, or may appear, on any exhibit in the proceeding.

(ii) The person is subject to follow-up inspections after that person's failure to attain a satisfactory compliance rating during any regulatory inspection performed by the department.

(3) The department has determined that the person no longer exists as a legal entity or has ceased to be subject to Section 34507.5 of the Vehicle Code, and sufficient time has passed that the department is unlikely to need to refer to the record associated with that CA number, and legal action against that person, as a motor carrier or a motor carrier of property, is not pending or contemplated by the department, and is not known to the department to be pending or contemplated by the Department of Motor Vehicles, the Public Utilities Commission, or the Federal Motor Carrier Safety Administration.

(4) The department will coordinate with the Department of Motor Vehicles to ensure that deletion of a CA number does not cause the inadvertent invalidation of a motor carrier of property permit, and if the carrier possesses such a permit, to arrange with the Department of Motor Vehicles for corresponding correction of relevant information associated with the permit in that agency's records, such as correction of the CA number associated with it.

§1235.6. Reconciliation of Records.

(a) *Conformance with This Article.* The department maintains an ongoing effort to conform its electronic records to the requirements of this article by each of the following actions:

(1) Identifying persons who may have been assigned more than one CA number and consolidating all of that person's information under one CA number, requiring the person to use only that single CA number, and deleting superfluous CA numbers and their associated records from the record system;

(2) Identifying CA numbers that represent multiple legal entities and requiring each legal entity who is a motor carrier or a motor carrier of property to obtain a separate CA number; and

(3) Identifying legal entities that have been assigned a CA number but which are not, and never were, either a motor carrier or a motor carrier of property, and removing those entities from the record system of the department after transferring any information to the record of the true owner, as appropriate.

(b) *Time to Comply.* In carrying out the objectives of subsection (a), the department will use the most expeditious methods to communicate with persons who are subject to this article, such as using telephone or facsimile communications to the extent they are practical. When it is determined that a "person" is actually multiple persons and additional CA numbers are needed, or that a person has multiple CA numbers and one or

more of them must be discontinued, the department will grant a reasonable period of time for the submission of new applications pursuant to Section 1235.1, the updating of carrier identification information, and if necessary, the remarking of vehicles pursuant to Section 34507.5 of the Vehicle Code. The department will negotiate a date by which any necessary remarking of vehicles with correct CA numbers will be accomplished, and provide to the person or persons a letter which can be copied and carried in vehicles and shown to any peace officer to show that the process of achieving compliance is in progress pursuant to a negotiated agreement.

(c) ***Enforcement.*** It is not the intent of the department to take enforcement action against any person who reasonably may not have known that he or she has been using an incorrect CA number due to any of the circumstances indicated in subsection (a). Enforcement action shall be taken only when the department has determined that a person is uncooperative in complying with the requirements of this article.

NOTE: Authority cited: Section 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a), and 34621(b)(4), Vehicle Code.

§1235.7. Leased Vehicles.

(a) ***Applicability.*** Unless otherwise specified, the regulations in this Section apply to the following actions by intrastate motor carriers:

(1) The leasing of equipment in order to perform transportation in vehicles regulated by the department.

(2) The leasing of equipment to motor carriers or shippers.

(b) ***Definitions.***

(1) *Addendum.* A supplement to an existing lease which is not effective until signed by the lessor and lessee.

(2) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of Vehicle Code Division 14.85.

(3) *Detention.* The holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment, under circumstances not attributable to the performance of the carrier.

(4) *Equipment.* A commercial motor vehicle listed in Vehicle Code Section 34601.

(5) *Escrow fund.* Money deposited by the lessor with either a third party or the lessee to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and State permit costs, and for any other purposes mutually agreed upon by the lessor and lessee.

(6) *Lease.* A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the transportation of property for which a Motor Carrier of Property (MCP) permit is required, pursuant to 34620 VC.

(7) *Lessee.* In a lease, the party acquiring the use of equipment with or without driver, from another person.

(8) *Lessor.* In a lease, the party granting the use of equipment, with or without driver, to an authorized carrier.

(9) *Owner.* A person (A) to whom title to equipment has been issued, or (B) who, without title, has the right to exclusive use of equipment, or (C) who has lawful possession of equipment, registered and licensed in any State in the name of that person.

(10) Shipper. A person who sends or receives property.

(11) Sublease. A written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

(c) **General Leasing Requirements.** Other than under the exemptions set forth in subsections (e) and (f), the authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

(1) Lease. There shall be a written lease granting the use of the equipment and meeting the requirements contained in subsection (d).

(2) Receipts for Equipment. Receipts, specifically identifying the equipment to be leased, including the vehicle identification number (EIN), and stating the date and time of day possession is transferred, shall be given as follows:

(A) When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt. The receipt identified in this section may be transmitted by mail, telegraph, or other similar means of communications.

(B) When possession of the equipment by the authorized carrier ends, a receipt shall be given in accordance with the terms of the lease agreement if the lease agreement requires a receipt.

(C) Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under this subsection.

(3) Identification of Equipment. The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service as follows:

(A) During the period of the lease, the carrier shall identify the equipment in accordance with Section 1256 of this chapter (Identification of Vehicles) and Vehicle Code Section 34507.5.

(B) Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative.

(3) *Records of Equipment.* The authorized carrier using equipment leased under this section shall keep records of the equipment as follows:

(A) The authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service.

(B) These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly indicating that the transportation is under its responsibility.

(C) These papers shall be preserved by the authorized carrier as part of its transportation records. Leases which contain the information required by the provisions in this subsection may be used and retained instead of such documents or papers.

(D) As to lease agreements negotiated under a master lease, this provision is complied with by having a copy of a master lease in the unit of equipment in question and where the balance of documentation called for by this subsection is included in the freight documents prepared for the specific movement.

(E) Records required by this subsection shall be retained by the authorized carrier for the duration of the lease and for six months thereafter. All record shall be made available, upon request, to any authorized representative of the department.

(d) **Written Lease Requirements.** Except as provided in the exemptions set forth in subsections (e) and (f), the written lease required under subsection (c) shall contain the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier.

(1) **Parties.** The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

(2) **Duration to be Specific.** The lease shall specify the time and date or the circumstances on which the lease begins and ends. These times or circumstances shall coincide with the times for the giving of receipts required by subsection (c)(2).

(3) **Exclusive Possession and Responsibilities.** (A) The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease.

(B) Provision may be made in the lease for considering the authorized carrier lessee as the owner of the equipment for the purpose of subleasing it under these regulations to other authorized carriers during the lease.

(C) Nothing in the provisions required by subsection (3) of this section is intended to affect whether the driver provided by the lessor is an independent contractor or an employee of the authorized carrier lessee.

(4) Compensation to be Specified. The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. Such lease or addendum shall be delivered to the lessor prior to the commencement of any trip in the service of the authorized carrier. An authorized representative of the lessor may accept these documents. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount.

(5) Items Specified in Lease. The lease shall clearly specify which party is responsible for removing identification devices from the equipment upon the termination of the lease and when and how these devices, other than those painted directly on the equipment, will be returned to the carrier. The lease shall clearly specify the manner in which a receipt will be given to the authorized carrier by the equipment owner when the latter retakes possession of the equipment upon termination of the lease agreement, if a receipt is required at all by the lease. The lease shall clearly specify the responsibility of each party

with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items. The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle, and the compensation, if any, to be paid for this service. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received.

(6) *Payment Period.* The lease shall specify that payment to the lessor shall be made within 15 days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to log books required by Section 1213 and those documents necessary for the authorized carrier to secure payment from the shipper. In addition, the lease may provide that, upon termination of the lease agreement as a condition precedent to payment, the lessor shall remove all identification devices of the authorized carrier and, except in the case of identification painted directly on equipment, return them to the carrier. If the identification devices has been lost or

stolen, a letter certifying its removal will satisfy this requirement. Until this requirement is complied with the carrier may withhold final payment. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment. Payment to the lessor shall not be made contingent upon submission of a bill of lading to which no exceptions have been taken. The authorized carrier shall not set time limits for the submission by the lessor of required delivery documents and other paperwork.

(7) Copies of freight bill or other form of freight documentation. When a lessor's revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document containing the same information, or, in the case of contract carriers, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, the lease will permit lessor to view, during normal business hours, a copy of any actual document underlying the computer-generated document. Regardless of the method of compensation, the lease must permit lessor to examine copies of the carrier's tariff or, in the case of contract carriers, other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract of a contract carrier, only those portions of the contract containing the same information that would appear on a rated freight bill need be disclosed. The authorized carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation.

(8) Charge-back Items. The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at time of payment or settlement, together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge.

(9) Products, Equipment, or Services from Authorized Carrier. The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments.

(10) Insurance. (A) The lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public pursuant to Section 34631.5 VC. The lease shall further specify who is responsible for providing any other insurance coverage for the operation of the leased equipment, such as bobtail insurance. If the authorized carrier will make a charge back to the lessor for any of this insurance, the lease shall specify the amount which will be charged-back to the lessor.

(B) If the lessor purchases any insurance coverage for the operation of the leased equipment from or through the authorized carrier, the lease shall specify that the authorized carrier will provide the lessor with a copy of each policy upon the request of the lessor. Also, where the lessor purchases such insurance in this manner, the lease shall specify that the authorized carrier will provide the lessor with a certificate of insurance for each such policy. Each certificate of insurance shall include the name of the insurer,

the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to the lessor for each type of coverage, and the deductible amount for each type of coverage for which the lessor may be liable.

(C) The lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made.

(11) Escrow Funds. If escrow funds are required, the lease shall specify:

(A) The amount of any escrow fund or performance bond required to be paid by the lessor to the authorized carrier or to a third party.

(B) The specific items to which the escrow fund can be applied.

(C) That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall provide an accounting to the lessor of any transactions involving such fund. The carrier shall perform this accounting in one of the following ways:

1. By clearly indicating in individual settlement sheets the amount and description of any deduction or addition made to the escrow fund; or

2. By providing a separate accounting to the lessor of any transactions involving the escrow fund. This separate accounting shall be done on a monthly basis.

(D) The right of the lessor to demand to have an accounting for transactions involving the escrow fund at any time.

(E) That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall pay interest on the escrow fund on at least a quarterly basis. For purposes of calculating the balance of the escrow fund on which interest must be paid, the carrier may deduct a sum equal to the average advance made to the individual lessor during the period of time for which interest is paid. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon issue yield on 91-day, 13-week Treasury bills as established in the weekly auction by the Department of Treasury.

(F) The conditions the lessor must fulfill in order to have the escrow fund returned. At the time of the return of the escrow fund, the authorized carrier may deduct monies for those obligations incurred by the lessor which have been previously specified in the lease, and shall provide a final accounting to the lessor or all such final deductions made to the escrow fund. The lease shall further specify that in no event shall the escrow fund be returned later than 45 days from the date of termination.

(12) Copies of the Lease. An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease on the equipment during the period of the lease unless a statement as provided for in Section (c)(3)(B) is carried on the equipment instead. The owner of the equipment shall keep the other copy of the lease.

(13) Subsection (c) applies to owners who are not agents but whose equipment is used by an agent of an authorized carrier in providing transportation on behalf of that authorized carrier. In this situation, the authorized carrier is obligated to ensure that these owners receive all the rights and benefits due an owner under the leasing regulations.

especially those set forth in subsections (d)(4)–(12) of this section. This is true regardless of whether the lease for the equipment is directly between the authorized carrier and its agent rather than directly between the authorized carrier and each of these owners. The lease between an authorized carrier and its agent shall specify this obligation.

(e) **General Exemptions.** Except for subsection(c)(3)(A) which requires the identification of equipment, the leasing regulations in this part shall not apply to:

(1) Equipment leased without drivers from a person who is principally engaged in such a business.

(2) Any type of trailer not drawn by a power unit leased from the same lessor.

(f) **Leasing Between Authorized Carriers.** Regardless of the leasing regulations set forth in this section, an authorized carrier may lease equipment to or from another authorized carrier under the following conditions:

(1) The identification of equipment requirements in subsection (c)(3) and Section 1256 shall be complied with;

(2) The lessor must own the equipment or hold it under a lease;

(3) There must be a written agreement between the authorized carriers concerning the equipment as follows:

(A) It must be signed by the parties or their authorized representatives.

(B) It must provide that control and responsibility for the operation of the equipment shall be that of the lessee from the time possession is taken by the lessee and the receipt required under paragraph (c)(2) is given to the lessor until:

1. Possession of the equipment is returned to the lessor and the receipt required under paragraph (c)(2) is received by the authorized carrier; or

2. in the event that the agreement is between authorized carriers, possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment.

(C) A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

(D) Nothing in this section shall prohibit the use, by authorized carriers, private carriers, and all other entities conducting lease operations pursuant to this section, of a master lease if a copy of that master lease is carried in the equipment while it is in the possession of the lessee, and if the master lease complies with the provisions of this section and receipts are exchanged in accordance with subsection (c)(2), and if records of the equipment are prepared and maintained in accordance with subsection (c)(4).

(4) Authorized carriers under common ownership and control may lease equipment to each other without complying with the requirements of subsection (1) pertaining to identification of equipment, and the requirements of subsections (3)(B) and (3)(D), pertaining to equipment receipts. The leasing of equipment between such carriers will be subject to all other requirements of paragraph (f).

(g) **Interstate Motor Carriers.** Motor carriers engaged in interstate commerce shall comply with the federal leasing regulations contained in Title 49, Code of Federal Regulations, Part 376, as those regulations exist in the October 1, 2007 edition.

(h) **Referenced Regulations.** Copies of Title 49, Code of Federal Regulations, can be obtained from:

SUPERINTENDENT OF DOCUMENTS

UNITED STATES GOVERNMENT PRINTING OFFICE

PO BOX 371954

PITTSBURG, PA 15250-7954

(202) 512-1800

Internet Purchases: http://www.access.gpo.gov/su_docs/sale.html

NOTE: Authority cited: Sections 34500 and 34501 Vehicle Code. Reference: Sections 408, 34500, 34501, 34501.2, 34501.5, 34501.12, 34505.5, 34507, 34507.5, 34620(a), and 34621 Vehicle Code.

Article 8. General Equipment Requirements

§1256. Identification.

(a) *Vehicles and Combinations ~~Name or Trademark~~*. Every motor vehicle other than a school bus, or at least one vehicle in every combination of vehicles exceeding a total length of 40 feet, shall display on both sides the name or trademark of the motor carrier under whose authority the vehicle or combination of vehicles is being operated or the name of the lessor or lessee thereof. Required markings shall contrast sharply with the background and shall be readily legible during daylight from a distance of 50 feet.

(1) If the name of any person other than the operating motor carrier appears on the vehicle, the name of the operating motor carrier must be preceded by the words “operated by.”

(b) *Carrier Identification (CA) Number*. The carrier identification number assigned to the motor carrier pursuant to Section 1235.3 and under whose operating authority or motor carrier permit the vehicle or combination of vehicles is being operated shall be displayed on both sides of each vehicle, or on both sides of at least one motor vehicle in each combination of vehicles, preceded by the term “CA.”

(1) Subdivision (b) does not apply to the following:

(A) A vehicle that displays a valid identification number assigned by the United States Secretary of the Department of Transportation.

(B) A vehicle that is regulated by, and that displays a valid operating authority number issued by, the Public Utilities Commission, including a household goods carrier as defined in Section 5109 of the Public Utilities Code.

(2)

(c) **Hazardous Waste Transporters.** Each vehicle in a combination of vehicles registered with the Department of Toxic Substances Control for the transportation of hazardous waste shall display on both sides the name or trademark of the hazardous waste transporter, as required by Section 66263.23(e) of Title 22 of this code.

(d) **Passenger Stage Service.** Buses and other vehicles operated in passenger stage service by a passenger stage corporation, and such vehicles operated by an entity receiving financial transit assistance from the state, shall display in the interior of such vehicles in clear view of passengers a notice prohibiting smoking in the vehicle. The notice shall be displayed as a symbol and in English, as required by Section 25949.2 of the Health and Safety Code.

(e) **Farm Labor Vehicles.** Every farm labor vehicle shall be identified as follows:

(1) *Markings.*

(A) The words "FARM LABOR VEHICLE" shall be displayed on each side of each farm labor vehicle in uppercase lettering on a sharply contrasting background. Letters shall be a minimum of 1.5 inches in height and clearly legible from a distance of 50 feet during daylight hours.

(B) The words “TO REPORT VIOLATIONS” in uppercase characters and the toll-free telephone number “1-800-TELL CHP” shall be displayed on the exterior on each side of each farm labor vehicle on a sharply contrasting background. Characters shall be a minimum of 1 inch in height and may be displayed on one or two lines.

(2) *Interior Notice.* A farm labor vehicle notice in English and Spanish, furnished by the department, shall be displayed in the interior of each farm labor vehicle in a location visible to the passengers. The required notice, Farm Labor Vehicle Notice, CHP 408C (New 12-99), shall be completed by an authorized employee of the department to indicate the maximum number of passengers the vehicle is permitted to transport and the vehicle license number. The notice shall also advise the reader of the toll-free departmental telephone number where violations relating to the operation of farm labor vehicles may be reported.

(f) **Additional Identifying Information.** Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this Section.

(g) **Size, shape, location, and color of marking.** The markings required by this section must:

- (1) Appear on both sides of the motor vehicle;
- (2) Be in letters that contrast sharply in color with the background on which the letters are placed;
- (3) Be readily legible, during daylight hours, from a distance of 50 feet (15.24 meters) while the vehicle is stationary; and

(4) Be kept and maintained in a manner that retains the legibility required by subparagraph (3) of this paragraph.

(h) Construction and durability. The markings may be painted on the vehicle or may consist of a removable device, if that device meets the identification and legibility requirements of paragraph (g) of this section, and such marking must be maintained as required by paragraph (g)(4) of this section.

Note: Authority cited: Sections 31401 and 34501, Vehicle Code. Reference: Sections 27900, 31401, 34501 and 34507.5, Vehicle Code.